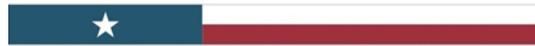


60x30TX



Texas Higher Education
Coordinating Board

REQUEST FOR APPLICATIONS

Open Educational Resources
Grant Program (OERGP)

2018-2019

RFA # 20337

INQUIRY DEADLINE: 5:00 p.m. CDT, August 10, 2018

APPLICATION DEADLINE: 5:00 p.m. CDT, August 20, 2018

TABLE OF CONTENTS

1	OVERVIEW OF FUNDING OPPORTUNITY	1
1.1	PROGRAM TITLE	1
1.2	SYNOPSIS OF PROGRAM.....	1
1.3	PROGRAM AND FUNDING AUTHORITY.....	1
1.4	DEFINITIONS.....	1
1.5	POINT OF CONTACT.....	1
2	AWARD SUMMARY	2
2.1	MAXIMUM NUMBER OF AWARDS ANTICIPATED AND MAXIMUM AWARD AMOUNT ..	2
2.2	GRANT PERIOD.....	2
2.3	GRANT TAXATION.....	2
2.4	APPLICATION TIMELINE	2
3	ELIGIBILITY INFORMATION	2
3.1	ELIGIBLE APPLICANT	2
3.2	MAXIMUM NUMBER OF SUBMISSIONS BY APPLICANT.....	3
4	APPLICATION SUBMISSION	3
5	INQUIRIES.....	3
6	PROGRAM BACKGROUND.....	3
7	ELIGIBLE PROJECTS	4
7.1	PRIORITY PROJECTS.....	4
8	PROJECT REQUIREMENTS.....	4
8.1	ELIGIBLE PROJECT DIRECTORS	4
8.2	PROJECT LENGTH	5
8.3	FUNDING RESTRICTION	5
8.4	ALLOWABLE COSTS AND RESTRICTIONS.....	5
9	SELECTION CRITERIA AND SCORING OF APPLICATIONS.....	5
10	APPLICATION FORMAT AND CONTENT	6
10.1	APPLICATION FORMAT	6
10.2	COVER PAGE.....	6
10.3	PROJECT NARRATIVE	6
10.4	PERFORMANCE MEASURES AND OUTCOMES.....	7
10.5	ATTACHMENT	8

11 PROVISIONS AND ASSURANCES.....	9
11.1 COST OF APPLICATION PREPARATION	9
11.2 APPLICATION DELIVERY AND LATE APPLICATIONS	9
11.3 CONFLICT OF INTEREST	9
11.4 CONTRACT	9
11.5 PAYMENT TERMS	10
11.6 GRANT EXTENSION	10
11.7 RELEASE OF INFORMATION BY AWARDED APPLICANT	10
11.8 RELEASE OF APPLICATION INFORMATION BY THECB	11
11.9 AMENDMENT AND TERMINATION.....	12
11.10 NOTICE	13
11.11 ASSIGNMENT OR SUBCONTRACTING.....	13
11.12 LIABILITY AND INDEMNIFICATION.....	13
11.13 INSURANCE	15
11.14 OWNERSHIP OF WORK.....	16
11.15 CONFLICTING RFA LANGUAGE	16
11.16 INSPECTIONS/SITE VISITS	16
11.17 AUDIT AND ACCESS TO RECORDS.....	16
11.18 ACCOUNTING SYSTEM.....	17
11.19 NON-APPROPRIATION OF FUNDS.....	17
11.20 REPORTING REQUIREMENTS	18
11.21 STATE FISCAL COMPLIANCE GUIDELINES.....	18
11.22 APPLICABLE LAW AND VENUE.....	18
11.23 APPLICANT RESPONSIBILITIES	19
11.24 ELIGIBILITY/AUTHORIZATION TO WORK IN THE UNITED STATES	19
11.25 SUPPLANTING PROHIBITION	19
11.26 CARRYOVER FUNDS	19
11.27 TIME AND EFFORT RECORDKEEPING.....	19
11.28 FORMS, ASSURANCES, AND REPORTS	19
11.29 AFFIRMATION CLAUSES	20
11.30 FORCE MAJEURE.....	20
11.31 DISPUTE RESOLUTION	20
11.32 SEVERABILITY AND STRICT PERFORMANCE.....	20
11.33 NOTIFICATION OF CONTRACT.....	21
11.34 BOYCOTTING ISRAEL	21

APPENDIX A: CALENDAR OF EVENTS 22
APPENDIX B: EVALUATION FORM..... 23
APPENDIX C: APPLICATION FORMS..... 24
 COVER PAGE 25
 PROJECT NARRATIVE..... 26
 PERFORMANCE MEASURES AND OUTCOMES..... 27
APPENDIX D: SAMPLE NOTICE OF GRANT AWARD 28

OPEN EDUCATIONAL RESOURCES GRANT PROGRAM

1 OVERVIEW OF FUNDING OPPORTUNITY

1.1 PROGRAM TITLE

Open Educational Resources Grant Program

1.2 SYNOPSIS OF PROGRAM

The Open Educational Resources Grant Program (OERGP) was established to encourage faculty at institutions of higher education to adopt, modify, redesign, or develop courses that use only open educational resources (OER).

This specific Request for Applications (RFA) solicits applications from faculty at Texas public institutions of higher education to adopt, modify, redesign, or develop courses that use only OER.

1.3 PROGRAM AND FUNDING AUTHORITY

The statutory authority for the Open Educational Resources Grant Program is found in Texas Education Code (TEC), Section 61.0668. It directs the Texas Higher Education Coordinating Board (THECB) to award grant funding to faculty adopting, modifying, redesigning, or developing courses that use only OER.

Funding Authority: General Appropriations Act, 85th Legislative Session, Article III, Section 58.

1.4 DEFINITIONS

Faculty Member – A person who is employed by an institution of higher education on a full-time basis as a member of the faculty whose duties include teaching, research, and administration (TEC, Section 51.101).

Institution of Higher Education – Any public technical institute, public junior college, public senior college or university, or medical or dental unit, or other agency of higher education as defined by TEC, 61.003(8).

Open Educational Resource – A teaching, learning, or research resource that is in the public domain or has been released under an intellectual property license that permits the free use, adaptation, and redistribution of the resource by any person. The term may include full course curricula, course materials, modules, textbooks, media, assignments, software, and any other tools, materials, or techniques, whether digital or otherwise, used to support knowledge. (TEC, Section 51.451 (4-a))

1.5 POINT OF CONTACT

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

Kylah Torre, Ph.D.
Program Director
Academic Quality and Workforce Division

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 MAXIMUM NUMBER OF AWARDS ANTICIPATED AND MAXIMUM AWARD AMOUNT

The THECB expects to award a maximum of \$5,000 for applications that propose to adopt, modify, redesign, or create one course that will use only open educational materials and a maximum of \$10,000 for applications that propose to adopt, modify, redesign, or create multiple courses. The THECB anticipates awarding approximately twenty grants under this project for the biennium ending August 31, 2019.

2.2 GRANT PERIOD

The Grant Period will begin upon the execution of the Notice of Grant Award (NOGA) and will conclude on August 31, 2021. Awarded applicants will have contractual obligations that extend beyond the Grant Period.

2.3 GRANT TAXATION

Grant funds will be taxed under "Grants to Individuals" and Grantee will receive an IRS 1099-MISC form.

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. A Calendar of Events for the Grant Period is in Appendix A.

Dates	Application Steps
August 10, 2018	Inquiry Deadline
August 20, 2018	Application Deadline
August 24, 2018	Confirmation of Application Receipt by THECB
October 1, 2018	THECB Anticipates Announcing Grant Awards
October 15, 2018 or upon execution of NOGA, whichever is later	Grant Period Begins

3 ELIGIBILITY INFORMATION

3.1 ELIGIBLE APPLICANT

An Eligible Applicant (Eligible Applicant or Applicant) is a faculty member from an institution of higher education.

3.2 MAXIMUM NUMBER OF SUBMISSIONS BY APPLICANT

An eligible applicant may submit a maximum of one (1) application.

4 APPLICATION SUBMISSION

Applications must be completed according to the guidelines in Section 10. Applications must be submitted by an authorized agent of the Applicant's institution via email to OERGP@theccb.state.tx.us to the Point of Contact listed in Section 1.5.

APPLICATION DEADLINE: 5:00 p.m. CDT, August 20, 2018

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

The THECB will confirm receipt of the submitted Application via email by August 24, 2018. If an Applicant does not receive such confirmation from the THECB, contact the Point of Contact listed in Section 1.5 immediately. 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.

5 INQUIRIES

All inquiries shall be directed to the Point of Contact listed in Section 1.5 at OERGP@theccb.state.tx.us. Applicant must not discuss an Application with any other THECB employee unless authorized by the Point of Contact.

Questions must be submitted by email and received no later than 5:00 p.m. CDT, August 10, 2018. **The subject line of the email containing questions should include OERGP and the name of the Applicant's institution.**

All responses by the THECB must be in writing 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 sent in the form of an addendum to the RFA to all Applicants that have submitted an Application. All Applicants must acknowledge receipt of all addenda, if any, to this RFA by returning a signed copy of each addendum with the submitted Application.

6 PROGRAM BACKGROUND

The 85th Texas Legislature passed SB 810, which added Section 61.0668, Texas Education Code, to "encourage faculty at institutions of higher education to adopt, modify, redesign, or develop courses that use only open educational resources." An allocation methodology and rules pertaining to the OER grant program were drafted with stakeholder input through negotiated rule-making. The RFA has been designed to encourage faculty to adopt, modify, redesign, or create courses that use only OER materials in accordance with this stakeholder input and the authorizing statute.

7 ELIGIBLE PROJECTS

An eligible faculty member of an eligible institution will propose to adopt, modify, redesign, or create one or more courses at the institution using only OER. Since the overall goal of the program is to offer courses that only use OER, eligible projects will be comprised of open educational resources for a complete course, which will require only open educational resources. Course materials will be provided to students at no cost, other than the cost of printing, should students choose to print the course materials. The courses should be taught during each of the four semesters/terms (including summer, if applicable) immediately following the implementation of each applicable course.

Courses eligible for consideration include only lower-division courses offered within the Texas General Education Core Curriculum (See the [Core Curriculum Web Center](#) for a list of eligible courses). Additional courses may be considered in future grant programs. The proposed courses must not be a part of another grant program or funding source offering funds to develop OER (e.g. Achieving the Dream).

Eligible projects will include a description of where the resources will be housed, maintained, and electronically accessible to faculty and students across the state. Should a statewide repository of OER be developed, all resources created under this grant program must be made available for inclusion in the repository. The materials should either reside in the public domain or be licensed under a Creative Commons Attribution-NonCommercial-ShareAlike license (CC BY-NC-SA, hereafter Creative Commons).

Creative Commons (CC) licenses allow content creators to retain copyright while allowing others to copy, distribute, and make some uses of their work — in this case, non-commercially. Every Creative Commons license also ensures licensors get the credit for their work. Every Creative Commons license is international and lasts as long as applicable copyright lasts. Creative Commons licenses have become the standard worldwide for copyright of OER. For more information on CC licenses, see "[About the Licenses.](#)"

Applicants wanting to copyright OER developed for this grant program under a Creative Commons license different from that stated above must provide a rationale in the Project Narrative.

Although future grant programs may invite collaborative applications, multi-faculty and/or multi-institutional applications will not be considered for this grant cycle.

7.1 PRIORITY PROJECTS

In addition to addressing the overall requirement in Section 7, an Applicant that proposes to adopt, modify, or redesign a general education *Academic Course Guide Manual (ACGM)* or equivalent core curriculum course with *proven substantial enrollments offered on a recurring semester basis* using only OER materials may receive up to 10 additional points during the application evaluation.

8 PROJECT REQUIREMENTS

8.1 ELIGIBLE PROJECT DIRECTORS

Each Eligible Applicant will serve as project director and include his/her contact information on the Cover Page.

The Project Director is responsible for implementing and overseeing the proposed project. This shall include the design and development of course materials, gathering of data on courses taught using the course OER materials, and reporting such data to the THECB Point of Contact for at least four semesters after the development of the course(s) that use only OER.

8.2 PROJECT LENGTH

The planning and initial implementation of the project must be completed within the Grant Period, which ends on August 31, 2021. By the end of the Spring 2019 academic semester, awarded applicants shall complete the development of the proposed course(s) that use only OER. Awarded Applicant shall submit to the THECB three written project reports: December 16, 2019, December 14, 2020, and the final report September 13, 2021 (See Section 11.20). Awarded applicants will have contractual obligations that extend beyond the grant period, including evaluation of the project and reporting.

8.3 FUNDING RESTRICTION

The proposed courses must not be a part of another grant program or funding source offering funds to develop OER.

8.3.1 A faculty member who is no longer employed by an institution of higher education forfeits any grant awarded under the program.

8.4 ALLOWABLE COSTS AND RESTRICTIONS

8.4.1 Allowable Cost Categories.

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

8.4.2. Prohibited Costs.

The following kinds of costs shall not be paid with OERGP funds:

- Costs incurred prior to the grant period;
- Indirect costs;
- Scholarship, loan assistance, stipends, or other forms of financial assistance for students;
- Foreign travel;
- Travel not consistent with state of Texas guidelines.

9 SELECTION CRITERIA AND SCORING OF APPLICATIONS

This RFA is competitive. It is designed to issue Grant Awards that provide the best overall value to the state and in accordance with the goals of the RFA. General selection criteria shall be based on project quality, as determined by reviewer criteria, and other factors, including projected student enrollments, the ability to continue the project after the Grant Period, and past performance on THECB grants, if

applicable. Each application will be reviewed by three subject matter experts in the discipline of the course(s).

Reviewers will use selection criteria totaling 130 points to score applications. The criteria are listed on the Evaluation Form in Appendix B.

10 APPLICATION FORMAT AND CONTENT

10.1 APPLICATION FORMAT

The Application shall be submitted, with signatures, by an authorized agent of the Applicant institution as one file in PDF format, containing the required Application Forms, which include Cover Page, Project Narrative, and Performance Measures and Outcomes. The file name shall read as the initials of the Applicant institution and the faculty member submitting the Application. Application.pdf (e.g., *UNT_RCP_Application.pdf*).

See Appendix C for the required Application Forms. The Application Forms are available as Word documents on the THECB website. Please do not alter the Application Forms; such alterations may result in the disqualification of the Applicant.

10.2 COVER PAGE

The Cover Page provides general information about the Application, including Applicant name, institution, and contact info; proposed course numbers(s) and title(s); amount requested; and authorized signatures. The authorized institutional representative shall be an individual who is legally authorized to bind the Applicant institution.

10.3 PROJECT NARRATIVE

The Project Narrative, limited to five pages, should address the following topics (included as headings on the form) and provide information needed to properly describe the proposed project.

10.3.1 Project Scope and Goals

Specify the course name and number of the proposed course(s), how often each course is offered, and total enrollments for the most recent four offerings of each course at the Applicant's institution. Explain how OERGP funding, if awarded, would enhance the course curricula, including learning outcomes, while ensuring that the students incur no cost for the educational resources used in the course except for printing. Describe each course's current use of educational resources (e.g., textbooks) to support instruction and learning, the cost to the student for those resources, and the potential savings to students through the project. In addition, provide a brief overview of significant OER currently available, if any, for the subject matter (e.g., Psychology, History, etc.) of each course.

10.3.2 Implementation Methodology

Describe in detail how the project will implement OER. Address such questions as:

- What are the anticipated challenges of replacing currently utilized learning materials with OER and how do you plan to overcome those challenges?

- Will the proposed course adopt existing OER, adapt/revise existing OER, create/author new resources, or a combination of the three? If developing new resources for the course(s), provide a rationale for doing so (e.g., lack of peer-reviewed OER available in the subject matter, etc.).
- What existing OER will you adopt and/or adapt/revise, if applicable, and are they available to the students at no cost other than the cost of printing?
- Have the proper permissions been obtained, if needed, for all resource(s), and can you ensure that they can be licensed under a CC BY-NC-SA license?
- What format(s) will be used (e.g., PDFs, e-text, video, etc.)?
- How can students, faculty, and others access the OER? How will accessibility (ADA) of these materials be ensured?
- How will alignment be assured between learning outcomes and assessments, i.e. that the stated goals of the course match what you are actually assessing? How will OER support student mastery of learning?
- How will instructional designers, librarians, or other staff support the project?
- Which four academic semesters do you anticipate offering the developed course(s) that involve only OER?

Outline a progression of activities and strategies during the Grant Period. Include pertinent information to support the choice of resources and strategies to implement their use in each course, and briefly list the project director's qualifications and relevant experiences, including knowledge of, and experience in, the utilization of OER.

10.3.3 Project Evaluation

Explain how the project will demonstrate whether the proposed deliverables have been successfully achieved. Your description should be linked to your Project Scope, Goals, and Implementation Methodology; address the Required Performance Measures listed in Section 10.4.2; and specify the type of information/data to be collected.

10.3.4 Sustainability

Describe how you and/or your institution will continue the project or similar activities after the Grant Period ends. You should identify any resources (time, effort, funds, etc.) that will be needed over the longer-term to sustain the effective use of the OER in the course(s) to support the learning outcomes, and how those needs can be met. Indicate your willingness to contribute the resources developed for this project to a statewide OER repository, should one become available.

10.4 PERFORMANCE MEASURES AND OUTCOMES

10.4.1 General Instructions and Definitions

The Performance Measures and Outcomes form, limited to three pages, projects outcomes of key performance measures that are quantifiable and aligned with the legislative requirements and the project's goals. The outcomes of these measures should indicate the extent of the project's success. Performance measures that are required for all OERGP-funded projects are specified in Section 10.4.2 and are included in the Performance Measures and Outcomes form. The evaluation of the project and the reporting of its outcomes should follow the Family Educational Rights and Privacy Act (FERPA) regulations and guidelines.

To complete the Performance Measure and Outcomes form, Applicant will specify a baseline and projected outcome for each of the five required performance measures. For each course in the proposed project, Applicant shall include all five required performance measures and provide a baseline and projected outcome for each performance measure. Note the following:

- Baseline: For each performance measure, this will be based on available information at the time of the grant application.
- Projected per-semester outcome: Present the best estimate for each performance measure every time the course is taught after the OER development.
- Actual outcomes: After the OER development, the course is required to be offered in four separate semesters. Based on the reporting timeline specified in this RFA, awarded applicant will report the actual outcome for each of the five required performance measures for each semester the course is offered, beginning with "Semester 1." As a part of the actual outcome, specify the academic semester (e.g., Spring 2019) the course is offered.

10.4.2 Required Performance Measures

The following five performance measures, related to impact, affordability, and effectiveness (learning outcomes and retention), are required for each OERGP-funded course under this RFA:

- the number of students who have completed the course;
- an estimate of the amount of money saved by a student due to the use of open educational resources used in the course;
- the number of other faculty, if any, who adopted the curriculum of the course;
- whether the overall comparative impact on student performance in terms of grades in the four semesters/terms of the reporting period was positive, neutral, or negative (higher, same, or lower percentage) over the four semesters prior to the semester in which the OERGP funds were awarded; and
- whether the overall comparative impact on drop/withdraw rates in the four semesters/terms of the reporting period was positive, neutral, or negative (lower, same, or higher percentage) over the four semesters prior to the semester in which the OERGP funds were awarded.

10.5 ATTACHMENT

The following attachment should be submitted, as applicable, as a PDF file. 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 forwarded to reviewers for application evaluation.

- Letter from Applicant requesting the THECB's consideration of exceptions, if applicable, 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. Applicant 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 institution.

11 PROVISIONS AND ASSURANCES

11.1 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.

11.2 APPLICATION DELIVERY AND LATE APPLICATIONS

11.2.1 Applications must be submitted by an authorized agent of the Applicant's institution.

11.2.2 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 deadline in Section 4. The THECB shall not be responsible for failure of electrical or mechanical equipment, operator error, or inability of an electronic delivery agent to deliver an Application prior to the deadline. Failure to respond in a timely manner to this RFA shall result in Applicant losing the opportunity to receive a Grant under this program. A late Application, regardless of circumstances, shall not be evaluated or considered for award.

11.3 CONFLICT OF INTEREST

11.3.1 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.

11.3.2 Disclosure of Interested Parties. The THECB may not execute a contract/grant requiring approval of the Board Chair, Vice Chair, and Committee Chair until the Business Entity has presented a certificate disclosing interested parties. "Business Entity" is defined as an entity (other than a governmental entity or state agency) through which business is conducted, regardless of whether the entity is for-profit or nonprofit. The Texas Ethics Commission (TEC) has 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.

11.4 CONTRACT

11.4.1 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.

11.4.2 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.'

11.5 PAYMENT TERMS

Payments shall be provided on receipt of grant deliverables. A one-half (1/2) payment shall be made upon verification that course materials have been posted, and one-half (1/2) at the end of the first term in which developed course materials have been used. The total of grant payments will not exceed the amount provided by the grant award.

11.6 GRANT EXTENSION

An Awarded Applicant that shows success in project outcomes may be eligible to apply for a maximum six-month, no-cost grant extension on the project, which may be granted at the THECB's sole discretion.

11.7 RELEASE OF INFORMATION BY AWARDED APPLICANT

11.7.1 *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.

11.7.2 *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.

11.7.2.1 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.

11.7.2.2 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.

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

11.8 RELEASE OF APPLICATION INFORMATION BY THECB

11.8.1 *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.

11.8.2 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.

11.8.3 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.

11.8.4 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.

11.9 AMENDMENT AND TERMINATION

- 11.9.1** *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.
- 11.9.2** *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 11 "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.
- 11.9.3** *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.
- 11.9.4** *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.

11.9.5 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.

11.10 NOTICE

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

11.10.2 *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.

11.10.3 *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.

11.10.4 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.

11.11 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.

11.12 LIABILITY AND INDEMNIFICATION

11.12.1 LIABILITY

11.12.1.1 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.

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

11.12.1.3 *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.

11.12.2 INDEMNIFICATION

11.12.2.1 *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.

11.12.2.2 *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.

11.12.2.3 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.

11.13 INSURANCE

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.

11.14 OWNERSHIP OF WORK

11.14.1 *Definition of work.* For the purposes of this OERGP, the term “work” is defined as all open educational resources, including full course curricula, course materials, modules, textbooks, media, assignments, software, and any other tools, materials, or techniques developed, produced, or generated in connection with this Contract.

11.14.2 *Copyright.* When copyrightable material is developed during or under this Grant, Awarded Applicant should license the material under a Creative Commons license, preferably an Attribution-NonCommercial-ShareAlike license (CC BY-NC-SA). Justification for licensing under an alternative CC license must be provided in the Project Narrative and permission to do so may not be granted.

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.

11.14.3 *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.

11.15 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.

11.16 INSPECTIONS/SITE VISITS

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

11.17 AUDIT AND ACCESS TO RECORDS

11.17.1 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.

11.17.2 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.

11.17.3 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.

11.17.4 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.

11.18 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.

11.19 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.

11.20 REPORTING REQUIREMENTS

11.20.1 Awarded Applicant shall be required to complete a project evaluation for a project funded as a result of this RFA.

11.20.2 Awarded Applicant shall submit to the THECB three written project reports: December 16, 2019, December 14, 2020, and the final report September 13, 2021.

11.20.3 Each report should include, at a minimum:

- A description of the open educational resources used in the course;
- the number of students who have completed the course;
- an estimate of the amount of money saved by a student due to the use of open educational resources used in the course;
- the number of other faculty, if any, who adopted the curriculum of the course;
- whether the overall comparative impact on student performance in terms of grades in the four semesters of the reporting period was positive, neutral, or negative (higher, same, or lower percentage) over the four semesters prior to the semester in which the OERGP funds were awarded; and
- whether the overall comparative impact on drop/withdraw rates in the four semesters of the reporting period was positive, neutral, or negative (lower, same, or higher percentage) over the four semesters prior to the semester in which the OERGP funds were awarded.

THECB shall provide templates for reporting.

11.21 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 <http://governor.state.tx.us/files/state-grants/UGMS062004.doc>.

11.22 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.

11.23 APPLICANT RESPONSIBILITIES

Applicant shall comply with all federal, state and local laws, statutes, ordinances, rules and regulations (including the THECB rules relating to the OERGP program as codified in 19 Texas Administrative Code (TAC) Section 4.230 and the orders and decrees of any court or administrative bodies or tribunals in any matter affecting the performance of the Contract, including, if applicable, workers compensation laws, compensation statutes and regulations, and licensing laws and regulations. When requested to do so by the THECB, Applicant shall furnish the THECB with satisfactory proof of its compliance.

11.24 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.

11.25 SUPPLANTING PROHIBITION

A Grant Award may not be used to replace federal, state, or local funds, or any other grant awarded to develop OER for the course(s) (e.g. Achieving the Dream).

11.26 CARRYOVER FUNDS

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

11.27 TIME AND EFFORT RECORDKEEPING

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

11.28 FORMS, ASSURANCES, AND REPORTS

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

11.29 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>.)

11.30 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.

11.31 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.

11.32 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.

11.33 NOTIFICATION OF CONTRACT:

(Only applies to Employees of a Texas state agency or any institution of higher education.) THECB will send notification to the Applicant's employer, if Applicant is otherwise employed outside of his/her contracted work with THECB.

11.34 BOYCOTTING ISRAEL:

In accordance with Government Code, Section 2270.002, the State of Texas may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it:

- (1) does not boycott Israel; and
- (2) will not boycott Israel during the term of the contract.

APPENDIX A: CALENDAR OF EVENTS

August 10, 2018	Inquiry Deadline
August 20, 2018	Application Deadline
October 1, 2018	THECB Anticipates Announcing Grant Awards
October 15, 2018	Grant Period Begins (or upon execution of the NOGA, whichever is later)
May 2019	Awarded applicant shall complete the development of proposed course(s).
December 16, 2019	Awarded applicant shall submit the first written project report.
December 14, 2020	Awarded applicant shall submit the second written project report.
August 31, 2021	Grant Period Ends. Awarded applicants will have contractual obligations that extend beyond the Grant Period.
September 13, 2021	Awarded applicant shall submit the final written project report.

APPENDIX B: EVALUATION FORM

OERGP Evaluation Form	Project #	Reviewer #
------------------------------	------------------	-------------------

<i>PART A - Proposal Scoring</i>	Max. Points	Actual Points
Project design <ul style="list-style-type: none"> The project is well defined and has a cohesive design. [10] The project can be completed within the Grant Period, exclusive of teaching requirements. [5] The proposed project is realistic and appropriate to the goals identified by the Applicant. [10] The proposed activities and strategies are appropriate and are described in sufficient detail. [10] Project activities would likely continue after the Grant Period ends. [5] 	40	
Project goals <ul style="list-style-type: none"> Project goals align with the overall goals of the RFA to adopt, modify, redesign, or develop courses that use only open educational resources (OER). [5] The course materials proposed are of sufficient quality to enhance course curricula, including student learning outcomes/objectives aligned to the OER as well as to assessments. [15] The course materials are provided to the student at no cost, other than the cost of printing. [10] 	30	
Evaluation and expected outcomes <ul style="list-style-type: none"> The proposed project evaluation for determining the success of the project is described in sufficient detail and includes relevant information/data to be collected. [10] The expected outcomes are realistic. [10] The expected outcomes would make a significant impact on reducing the cost of educational resources in the course(s). [20] The expected outcomes would have an overall positive or neutral impact on student performance in terms of grades and drop/withdraw rates. [5] There are sufficient staffing and resources to ensure that project evaluation information/data will be properly collected and reported. [5] 	50	
Priority Project as Defined in 7.1	10	
TOTAL POINTS	130	

APPENDIX C: APPLICATION FORMS

Open Educational Resources Grant Program

COVER PAGE

Applicant and Applicant's Institution:		
Total OERGP Funding Requested for Period Ending 08/31/2021 (up to \$5,000 for one course, \$10,000 for multiple courses): \$		
Contact Information and Signatures		
Applicant's Name (typed): Phone: Email Address: Mailing Address: _____ Applicant's Signature	Proposed Course(s), including number and title:	
Contact Person's Name and Title at Office of Sponsored Projects (typed): Phone/Email: Mailing Address:		
Authorized Institutional Representative's Name and Title (typed): I certify that the statements herein are true, complete, and accurate to the best of my knowledge. I further certify that if OERGP program funds are awarded, this institution accepts the obligation to comply with terms and conditions set by the Texas Higher Education Coordinating Board. _____ Authorized Institutional Representative Signature		_____ Date

Open Educational Resources Grant Program

PROJECT NARRATIVE

Applicant and Applicant's Institution:

- 1. Project Scope and Goals**
- 2. Implementation Methodology**
- 3. Project Evaluation**
- 4. Sustainability**

Open Educational Resources Grant Program

PERFORMANCE MEASURES AND OUTCOMES

Applicant and Applicant's Institution:							
Course Number and Title	Performance Measure	Baseline	Projected per-Semester Outcome	Semester 1 Actual Outcome	Semester 2 Actual Outcome	Semester 3 Actual Outcome	Semester 4 Actual Outcome
				<i>(*Specify Semester)</i>	<i>(*Specify Semester)</i>	<i>(*Specify Semester)</i>	<i>(*Specify Semester)</i>
	Number of students who complete the course						
	Amount of money saved by a student due to the use of open educational resources used in the course						
	Number of other faculty who adopt the curriculum of the course						
	Student performance in terms of grades						
	Student drop/withdraw rates (%)						

*Indicate the specific semester (e.g., Spring 2019) when the course is offered.

APPENDIX D: 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: Open Educational Resources
	Amount of Award: \$ {total_\$}
	Division: Academic Quality and Workforce
	Term of Grant: Date of NOGA – August 31, 2019
	Payment Method: Reimbursement

Authority: **Texas Education Code, Section 61.0668**

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:	Applicant:
{signContact} {signContacttitle}	{signed_by} {signed_bytitle}
Date:	Date: