

**Chief Elected Official's
Membership
Guide**

for

**Local Workforce
Development Boards**



**Provided to Chief Elected Officials
by the Texas Workforce Commission**

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PART A — BOARD MEMBERSHIP

A-100: Overview of Membership

Local Workforce Development Boards (Boards) play an important role in building a quality workforce to meet the skills needed by employers and assist Texans in their pursuit of well-paid, productive jobs. The appointment of Board members to Boards is a significant responsibility and should be undertaken with careful consideration.

A Board’s success is closely tied to the quality of its leadership. In their initial decisions to form Boards in the mid-1990s, the chief elected officials (CEOs) accepted the transfer of authority to their local communities for workforce services under the following federal programs and funds:

- Temporary Assistance for Needy Families (TANF)
- Child Care and Development Fund (CCDF)
- Supplemental Nutrition Assistance Program (SNAP)
- Workforce Investment Act (WIA)—now the Workforce Innovation and Opportunity Act (WIOA)

Since that time, Boards have also assumed responsibility for many other programs. Boards collectively oversee millions of dollars in state and federal employment and training funds.

The broad responsibilities overseen by Boards emphasize the importance of CEO appointments. With each year, the workforce system grows in complexity and responsibility, relying on CEOs to appoint individuals with high standards of leadership and a depth of expertise in their respective Board categories.

To help prepare CEOs to work with Boards in the Texas workforce system, the Texas Workforce Commission (TWC) offers training (both on-site and online), educational programs, and forums. TWC staff is always available to work with CEOs and their staffs individually, in small group regional settings, in larger groups in Austin, and at TWC’s annual statewide conference.

TWC will provide any help or guidance you may need to develop your capacity as a CEO in the Texas workforce system.

Through Board appointments, the CEO creates a legacy of success for the Board and the Texas workforce system, ensuring that employers and job seekers in the Board’s local workforce development area (workforce area) have full access to essential services in a convenient one-stop setting.

A-100.1: Meeting State and Federal Laws and Regulations

Board members “shall be actively engaged in the organization, enterprise, or field that they are nominated to represent.” A Board member “shall have an existing relationship with the local workforce development area (workforce area) through residence or employment within the workforce area.” [TWC Chapter 801 Local Workforce Development rule §801.1(g)(2)(C)(v)]

“Members who represent organizations, agencies, or other entities must be individuals with optimum policy making authority within the entities they represent.” [20 CFR §661.315(c)]

“A representative with ‘optimum policy making authority’ is an individual who can reasonably be expected to speak affirmatively on behalf of the entity he or she represents and to commit that entity to a chosen course of action.” [20 CFR §661.203(a)]

Board members are the “trustees” or guardians of the state’s workforce development system. They are entrusted with significant fiduciary and policy responsibilities, including oversight of millions of state and federal tax dollars allocated to their workforce area for workforce training and services. The strength of a Board lies in the quality of its membership. Appointments should be made carefully and deliberately.

All CEOs in a workforce area must enter into an agreement that determines how they will select nominees for appointment as Board members. The process may be documented in one or both of the Board’s governing documents, the Interlocal Agreement and the Partnership Agreement. CEOs in a workforce area initially entered into their Interlocal Agreement as a requirement to form the Board. By law, the Interlocal Agreement contains the following required elements:

- Purpose of the agreement
- Process to select the lead CEO
- Process to keep CEOs informed regarding Board activities
- Initial size of the Board
- Process for sharing workforce funding among the parties
- Process for selecting and appointing Board members
- Terms of office for Board members

The second governing document, the Partnership Agreement, is between CEOs and the Board. Its purpose is to define their operating relationship. The Partnership Agreement may detail the Board’s composition and how Board members are selected and appointed, although that is not a required element of the Partnership Agreement. If that information is included, however, it must be consistent with the Interlocal Agreement. The requirement for consistency applies to any item that is addressed in both governing documents. Both agreements are dynamic documents that must be amended when a need arises and the respective signatories agree.

Board appointments do not require the signature of all CEOs, only the signature of that Board’s authorizing CEO.

A-200: Membership Process

A-200.1: Categories of Policies and Procedures

The Chief Elected Official’s Membership Guide presents the state’s policy and procedures in the following areas:

- Appointing individuals to serve on Boards
- Filling vacancies on the Boards
- Reviewing Board appointments and reappointments
- Certifying those appointments

The governor certifies that all Boards are composed according to state law and meet other

requirements. The certification process is conducted every two years. TWC’s three-member Commission (Commission) certifies all subsequent Board appointments and reappointments.

A-200.2: Grandfathering Provision

With the enactment of the Workforce Investment Act (WIA) in 1998, federal law incorporated many of the improvements made to Texas’ workforce system in the mid-1990s by the Texas legislature. In particular, WIA provided for exemptions that authorize the state to maintain many features of its reform efforts already in state law, including provisions for Boards. WIA recognized states that already had laws in place that were consistent with WIA’s purpose, and these exemptions have been maintained under the Workforce Innovation and Opportunity Act (WIOA), enacted in 2014.

The provisions that list these exemptions are commonly referred to as “grandfather provisions.” To understand how Texas applies the grandfather provisions, the phrase “prior consistent state law” generally refers to the provisions found in Texas Government Code §2308 and to state rules and procedures that implemented Texas’ workforce reform.

A-200.3: Diversity

The CEOs of a workforce area have the power to select and appoint Board members. CEOs must make these appointments in accordance with applicable laws. Under Texas’ workforce reform law, Board membership must “reflect the ethnic and geographic diversity of the workforce area.” [Texas Government Code §2308.255(b)(2)] CEOs must ensure that the overall composition of the Board fulfills this diversity requirement.

TWC believes that a strong and effective Board will be representative of the gender and ethnic diversity found in the local community. The Commission encourages CEOs to consider these issues before making appointments.

A-200.4: Board Development

TWC cannot overemphasize the importance of the Board appointment process. The effectiveness of a Board correlates to the quality of its leadership and members. The appointment of Board members is a significant responsibility and must be undertaken with careful consideration. It must never be interpreted or used as an arbitrary political process.

Every workforce area must have a Board. The minimum size of a Board is 25 members. (See G-200: Board Membership Breakdown by Category.)

A-200.5: Required Categories

No individual Board member may be a representative of more than one sector or category described in this section. (See A-200.5.1: Special Board Requirements.) Each Board must have member representatives from:

- the private sector;
- organized labor and community-based organizations (CBOs);

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- education;
- public employment service (TWC);
- vocational rehabilitation;
- public assistance;
- economic development;
- local literacy councils; and
- adult basic and continuing education.

All required Board members must have voting privilege, per 20 CFR 679.320(i).

A-200.5.1: Special Board Requirements

At least one Board member from the representative categories must also meet the following requirements:

- **Child Care Requirement**—At least one of the members of a Board appointed under Texas Government Code §2308.256(3)(g)(a) must, in addition to the qualifications required for Board members under that subsection, have expertise in child care or early childhood education. [§801.1(g)(2)(C)(vi)] To meet this requirement, the nominee's expertise must be below the prekindergarten level.
- A child care representative is highly encouraged to be actively engaged in early childhood development. This includes, but is not limited to, being the director or owner of a child care facility or being an affiliated board member of a child care program.
- **Veteran Requirement**—At least one of the members of a Board appointed under Texas Government Code §2308.256(h) must, in addition to the qualifications required for Board members under that subsection, be a veteran.

A veteran is defined as an individual who served in the army, navy, air force, coast guard, or marine corps of the United States or the US Public Health Service under 42 USC §201 et seq., as amended; the state military forces as defined by Texas Government Code §431.001; or an auxiliary service of one of those branches of the armed forces and who was honorably discharged from the branch of the service in which the individual served.

CEOs are responsible for ensuring that Boards have a member who is a veteran. If the Board does not currently include a member who is a veteran, CEOs must appoint a new member who reflects these requirements as vacancies occur or as terms end.

A veteran who otherwise meets the requirements of a member category in Texas Government Code §2308.256(a) must also meet the statutory definition of a veteran [Texas Government Code §2308.251(2)] and must be actively engaged in the field of veterans' affairs or services. This includes, but is not limited to, veterans who are members or employees of organizations such as Veterans of Foreign Wars of the United States, the American Legion, the Military Service Coalition, and Disabled American Veterans.

A-200.5.2: Private Sector Representatives

Private sector representatives must represent the workforce needs and interests of the workforce area's business community in the following ways:

- The Chairman of the Board must be a private sector representative. [Texas Government Code §2308.258]
- Private sector representatives must be business owners, chief executives, chief operating officers of nongovernmental employers, or other executives from the private sector who have substantial management or policy responsibility.
- As long as they are otherwise eligible to serve, private sector representatives may be selected from for-profit or private nonprofit businesses.
- If an individual is being nominated by an appropriate organization as a private sector representative and is not the business owner, chief executive, or chief operating officer, the nomination must also include detailed documentation supporting the nominee's qualifications as an executive with "substantial management or policy responsibility."

Factors that the Commission may consider when reviewing nominations include, but are not limited to, the number of employees the nominee supervises; whether the nominee has authority to hire, fire, and promote; and whether the nominee has substantial authority in relation to the management or general business operations of the organization as a whole.

Under TWC Chapter §801.1(g)(2)(C)(i), to be eligible to represent the private sector, at least 51 percent of an individual's annual income must be from private sector sources.

This provision was originally adopted to prevent situations in which individuals working full-time for a governmental entity were appointed as private sector representatives because these individuals also worked part-time for a private business or were self-employed part of the time.

Documentation of an individual's annual income is required only in situations such as these. An affidavit, which must be notarized, or Internal Revenue Service tax return is an example of documentation that may be provided.

- Representatives of the private sector should reflect the composition of the workforce area's pool of employers and include representatives of the region's larger employers and emerging growth industries. Primary consideration should be given to private sector employers that do not directly provide employment and workforce training services to the general public.
- CEOs may refer to any relevant labor market information, locally obtained information, state-published data, analysis that identifies employment trends, emerging and growth industries, the size of local employers, or other data that TWC provides through its website and resources. This will help CEOs when considering Board appointments for vacancies that may occur throughout the year.

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- Private sector representatives must constitute a majority of the membership of the Board. Texas Government Code §2308.256(a)(1)(A) outlines the number of private sector seats compared to the total number of Board seats for any workforce area. (See G-100: Board Membership Breakdown by Number of Members.)
- Private sector representatives on the Board are selected from individuals nominated by general-purpose business organizations that consulted with and received recommendations from other business organizations in the workforce area. The nominations and the individuals selected for Board appointment must reasonably represent the industrial and demographic composition of the workforce area business community.
- Not less than one-half of the business and industry representatives must, if possible, be representatives of small business, including minority businesses. [Texas Government Code §2308.256(b)]

The term “general purpose business organizations” means organizations that admit for membership any for-profit business operating within the workforce area. [Texas Government Code §2308.256(f)(1)]

The term “small business” means a private, for-profit enterprise that employs not more than 500 employees. [Texas Government Code §2308.256(f)(2)]

A-200.5.3: Community-Based Organization and Organized Labor Representatives

Community-based organizations (CBOs) and labor representatives together must constitute not less than 15 percent of the membership of the Board. (See G-200: Board Membership Breakdown by Category.)

CBO Representatives

- The term “CBO” refers to a private nonprofit organization that is representative of a community or a significant segment of a community and that has demonstrated expertise and effectiveness in the field of workforce investment.
- CBOs include organizations representing veterans and individuals with disabilities, as well as faith-based organizations (FBOs).
- CBO representatives must be actively engaged with the CBO as a Board member, employee, or active member.

Organized Labor Representatives

- Representatives of local organized labor organizations must be nominated by local labor federations unless no employees in the workforce area are represented by such organizations, in which case nominations may be made by other representatives of employees. A labor federation is defined as an alliance of two or more organized labor unions for the purpose of mutual support and action. [TWC Chapter §801.1(g)(2)(C)(iv)]
- Labor representatives on the Board are selected from individuals recommended by

recognized state and local labor federations. If a state or local labor federation does not nominate a number of individuals sufficient to meet the labor representation requirements of Subsection (a)(2), individual workers may be included on the council to complete the labor representation. [Texas Government Code §2308.256(d)]

- Labor representatives must be affiliated with organized labor by being a union member, labor union staff, or other individual participating in labor union activities.

A-200.5.4: Education Representatives

A Board must have at least two education representatives, one at the secondary level and one at the postsecondary level.

Education representatives on the Board are selected from individuals nominated by regional or local educational agencies, vocational education institutions, institutions of higher education, including entities offering adult education, and general organizations of the institutions within the workforce area [Texas Government Code §2308.256(c)]

Educational agencies include community colleges and secondary and postsecondary practitioners representing vocational education that are representative of all educational agencies in the workforce area. [Texas Government Code §2308.256(a)(3)(A)]

- Secondary Education—Education representatives must represent elementary and secondary schools within the workforce area.
- Postsecondary Education—Education representatives must represent community colleges and postsecondary practitioners representing vocational education that are representatives of all educational agencies in the workforce area.

Education representatives must be selected from school board members, teachers, administrators, counselors, or others actively engaged in the education field.

A-200.5.5: Public Employment Service Representatives

A Board must have at least one public employment service representative.

- Texas' workforce reform law placed a representative of the public employment service on each Board. [Texas Government Code §2308.256(3)(E)] TWC will recommend a current employee to serve as the public employment service representative on the Board.
- When notified of a public employment vacancy on a Board, TWC's Workforce Development Division will identify a nominee to serve on the Board as the public employment service representative.

A-200.5.6: Vocational Rehabilitation Representatives

Each Board must have at least one vocational rehabilitation representative.

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- Vocational rehabilitation organizations are those that provide services to individuals with disabilities to help them prepare for, secure, retain, or regain employment.
- Representatives must be active board members or employees of a vocational rehabilitation organization. Examples of vocational rehabilitation organizations are TWC's Vocational Rehabilitation Division, Goodwill Industries, and other vocational rehabilitation organizations.

A-200.5.7: Public Assistance Representatives

Each Board must have at least one public assistance representative.

- Public assistance means federal, state, or local government cash payments for which eligibility is determined by a measure of need or income. Examples of public assistance organizations include the Texas Health and Human Services Commission, local housing authorities, the Social Security Administration, and community action agencies.
- Representatives must be active board members or employees of the public assistance organization.

A-200.5.8: Economic Development Representatives

Each Board must have at least one economic development representative.

- Economic development organizations may include local planning and zoning commissions or boards, community development agencies, and other local organizations and institutions responsible for regulating, promoting, or assisting in local economic growth, including private sector economic development entities.
- Representatives must be board members or employees of an economic development organization.

A-200.5.9: Local Literacy Council Representatives

Each Board must have at least one local literacy council representative.

- This member must be selected from individuals recommended by the local literacy council. [Texas Government Code §2308.256(1)(f)]
- Representatives must be board members, employees, or active volunteers of a local literacy council or of a literacy provider funded by a local literacy council.

A-200.5.10: Adult Basic and Continuing Education Representatives

Each Board must have at least one adult basic and continuing education representative.

- Adult basic and continuing education organizations may be local public education or private nonprofit organizations that provide educational instruction—for example, Adult Basic

Education, English as a Second Language, GED preparation—or other education services to adults who have not obtained a high school diploma or its equivalent. Public education organizations include community colleges.

- Representatives must be board members, employees, or volunteers and must be actively engaged in the provision of adult basic and continuing education.

A-300: Nominations

A-300.1: Submitting Nominations for Appointment

When nominating an individual to serve on the Board, all nominating organizations must complete and submit the Nomination Slate provided by TWC to the CEOs for Board member selection and appointment. CEOs will review the Nomination Slate and accompanying documentation to select and appoint Board members. TWC will accept only Board appointments made using TWC's Nomination Slate, included in this guide. The Nomination Slate is also available on TWC's [website](#).

A-300.2: Required Documentation

Documentation supporting the qualifications of nominees must accompany Nomination Slates. Documentation may be in the form of curricula vitae, résumés, or work histories.

Documentation must contain detailed information that clearly explains how a nominee is qualified to represent the respective category on the Board.

Nominations for all Board categories must include:

- name, address, and TWC tax number(s) of the organization or business the nominee represents;
- nominee's position in the organization or business; and
- size of the organization or business by total number of employees.

Additionally, a Conflict of Interest Statement for Local Workforce Development Board Members form must be submitted for each nominee appointed by the CEO. The form requires the signature of the Board's executive director.

The Conflict of Interest Statement for Local Workforce Development Board Members form is available on TWC's [website](#).

A-300.3: Submitting Board Appointments

After nominating organizations submit their nominations and CEOs make Board appointments, CEOs must forward the following documents to TWC's Workforce Development Division:

- Board Appointments form
- Nomination Slate for each appointment
- Supporting documentation for each appointment (résumé/bio)

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- Conflict of Interest Statement for Local Workforce Development Board Members form completed by the Board's executive director

The Workforce Development Division is responsible for administrative oversight of Board appointments.

Submit all documentation required for Board appointments to:

Texas Workforce Commission
Workforce Development Division
Board Support and Agency Administered Programs
101 E. 15th Street, Rm. 252-T
Austin, Texas 78778

A-400: Appointments

A-400.1: Texas Government Code Requirements

The Texas Government Code requires that Board members be selected and appointed by the CEOs in a workforce area, as follows:

- CEOs must submit Board appointments and supporting documentation to TWC for review to ensure compliance with statutory requirements.
- TWC will only accept appointments that include a Board Appointments form signed by the CEO. The CEO must indicate the official beginning date of the new appointment and the official expiration date on the Board Appointments form.

Board members serve fixed and staggered terms as provided by the Partnership Agreement or applicable federal or state law, and members may continue to serve until their successors are appointed. [Texas Government Code §2308.255(d)] The Board has 90 days to have a successor or reappointment certified by the Commission.

CEOs must identify each Board member's category at the time of the appointment, and the member may represent only that category during the term of the appointment.

To change a Board member's representation category, the member must be nominated in the new category by an appropriate entity or organization, be appointed to that new category by the CEO, and resubmitted through the appointment process.

A Vacancy Form is not required when a CEO nominates a Board member for a new categorical position on the Board. The appointment must comply fully with the requirements of the law and this guide.

A-400.2: Prohibition of Dual Office Holding

As elected officials, workforce area CEOs are public officers. Boards are statutorily created public entities and often recognized by state statute as governmental entities. As such, a Board member is

also considered a public officer. Therefore, under the state prohibition against dual office holding, CEOs may not serve as Board members.

Similarly, Board staff and employees of the fiscal agent and administrative entity are prohibited from serving as Board members. This determination is based on the common law doctrine of incompatibility.

Texas courts hold that the common law doctrine of incompatibility prohibits one individual from occupying two offices when one office may impose its policies on the other or subject it to control in some other way. The common law doctrine of incompatibility has been recognized to prohibit self-appointment and conflicting loyalties.

A-400.3: Prohibition of Conflicting Loyalties

The common law doctrine of incompatibility also prevents one individual from holding two positions if the duties are inconsistent or in conflict. It is the relationship between the two positions that creates the potential for conflict. Incompatibility arises when one governmental body has authority to impose its will on the other in any manner whatsoever.

Because CEOs appoint Board members, enter into a partnership agreement with the Board, oversee the formation of the Board, and may contract with the Board, the two positions are potentially in conflict, and therefore, incompatible, given their conflicting duties. Consequently, CEOs may not serve on Boards in their workforce areas.

Note: CEOs may serve as ex-officio, nonvoting members of a Board.

Public officeholders who are not designated CEOs would probably not be prohibited from serving on the Board under the doctrine of incompatibility. However, another prohibition against serving in dual offices may be based on either a constitutional prohibition or another common law doctrine. As with all appointments, a review of individual circumstances is necessary before the Commission certifies the appointment.

A-500: Reappointments

A-500.1: Responsibility for Reappointment

CEOs are responsible for all reappointments. New Nomination Slates are required for all reappointments from appropriate nominating organizations, along with the current curricula vitae, résumés, or work histories and the Conflict of Interest Statement for Local Workforce Development Board Members form.

A-500.2: Reappointment Process

CEOs must process reappointments within 90 calendar days after the effective date of the term expiration. During the 90-calendar-day period, the Board is able to legally act as a Board and conduct business. If a CEO fails to reappoint a Board member in a required category within 90 calendar days, the Board will be out of compliance with its membership composition, and any business conducted may not be considered legal. (For an explanation of the negative impact on

conduct of the Board's business if the process is not completed by the 90-day deadline, see A-600.2: Filling a Vacancy and A-600.3: Failure to Fill Vacancies within the 90-Day Requirement.)

CEOs must indicate both the official beginning date of the reappointment and the official term expiration date on the Board Appointments form.

After the CEO submits all necessary documentation and TWC deems it in accordance with the required process and consistent with state law, Board organizational plans and bylaws, and other applicable policies, TWC will notify the CEO of appointment certifications.

A-600: Vacancies

A-600.1: Required Notice

If a Board member vacancy occurs because of resignation, termination, or any other reason, the Board Chair shall provide notice to the CEO(s) of the workforce area and to TWC within 20 calendar days of such event. [TWC Chapter §801.12(a)]

Such notice shall include:

- the name of the Board member;
- the category represented; and
- the effective date of the resignation, termination, or other event causing the vacancy.

The original resignation letter or documentation of other official action must be maintained at the Board level. [TWC Chapter §801.12(b)]

A-600.2: Filling a Vacancy

CEOs shall fill a vacancy in a required category in the same manner as the original appointment, within 90 calendar days after the effective date of the resignation, termination, or other event causing a vacancy. During the 90-day period, the Board is able to act as a body and conduct business. If the Board has a vacancy in a required category beyond the 90-day period, any action taken by the Board shall be void. [TWC Chapter §801.12(c)]

A-600.3: Failure to Fill Vacancies within the 90-Day Requirement

If CEOs fail to fill a vacancy in a required category within 90 calendar days of the effective date of the vacancy and remain in noncompliance beyond that time, the Commission may impose sanctions under TWC Chapter 802 Integrity of the Texas Workforce System rules, including withholding of administrative funds from the Board until the Board achieves compliance. TWC also may recommend that the governor decertify the Board. [TWC Chapter §801.12(d)]

If a vacancy or term expiration exceeds the 90-day requirement, TWC will take the following actions:

1. TWC will send a notice of noncompliance informing the CEO(s), Board Chair, and Board Executive Director that corrective action must be taken by the CEO(s) within 30 calendar

days from receipt of the notice.

2. If corrective action is not taken, TWC will send a second notice of noncompliance requiring the CEO(s), Board Chair, and Board Executive Director to take corrective action within 30 calendar days from receipt of the notice and that failure to take the required action stipulated in the second notice may result in a referral for possible sanctions.
3. If corrective action still is not taken, TWC will send a third notice informing the CEO(s), Board Chair, and Board Executive Director that the matter has been referred to the Workforce Development Division Director with a recommendation to withhold the Board's administrative funds.
4. If sanctions are imposed on the Board, TWC will notify the CEO(s), Board Chair, and Board Executive Director of such action(s).

A-700: Training for Board Members

A-700.1: Importance of Training

TWC must provide management and Board development training for all Board members. The training must:

- include information on the importance of a high-quality workforce to the economic prosperity of their communities; and
- encourage Board members to be community advocates for effective and efficient workforce development programs.

A-700.2: Time Requirements for Training

If a Board member does not receive training before the 91st day after the date on which the member begins service on the Board, the individual is ineligible to continue serving on the Board unless the training required was requested by the member but not provided by TWC. Board members may receive training directly from TWC or from a third party that has demonstrated experience in providing training to local workforce development or similar Boards. [Texas Labor Code §302.043]

A-700.3: Training Options

Upon appointment certification, TWC sends a new member letter to the Board member notifying the new member of training requirements and the two options for completing the training.

Board members may select one of the following training options:

- Self-paced, using a TWC handbook
- Classroom, provided by TWC upon request

If a Board member does not receive the required training before the 91st day after the date on which the member begins service, TWC will send notification to the Board Executive Director

informing the Board member that he or she has not met the training requirement and is ineligible to continue serving on the Board.

A-700.4: Proxies or Alternates

The use of proxies or alternates by Boards is prohibited. [TWC Chapter §801.16(e)]

A-700.5: Additional Training Requirement

Since January 1, 2006, all elected and appointed public officials have been required to receive training on the Open Meetings Act (OMA) and the Public Information Act (PIA). [Texas Government Code §551.005 and §552.012]

Board members are subject to the open government training requirement, which consists of one course on the Texas OMA and one course on the PIA.

TWC includes the Office of the Attorney General's (OAG) open government training when delivering classroom training for Board members to help members appointed after January 1, 2006, comply with the open government training requirement. (See A-700.3: Training Options.)

Section D-100.3 of this guide contains detailed information on the open government training requirement and how Board members may obtain online training resources from OAG.

PART B — PARTNERSHIP AGREEMENT

B-100: TWC Chapter 801 Local Workforce Development Rule §801.16

Under TWC Chapter §801.16, partnership agreements are subject to the following provisions:

- (a) The CEOs in a workforce area shall enter into a Partnership Agreement with the Board as required by Texas Government Code §2308.253(g) and by §801.1(g)(2)(A)(i)(I)–(VII) of this subchapter.
- (b) The Partnership Agreement shall be signed by the current CEO(s) and the Board Chair.
- (c) Any amendment to a Partnership Agreement, change to a Board's organizational plan or bylaws, or notice of an election of a new CEO or Board Chair shall be submitted to the Agency within 15 calendar days of the adoption of such amendment, change, or election.
- (d) If a CEO or Board Chair is newly elected during the then-current, two-year program planning cycle, such newly elected individual shall submit to the Agency a written statement acknowledging that he or she:
 - (1) has read, understands, and will comply with the current Partnership Agreement; and
 - (2) reserves the option to request negotiations to amend the Partnership Agreement at any time during the official's tenure as CEO or Board Chair.
- (e) All Partnership Agreements and Board organizational plans or bylaws shall state that Board members will not be permitted to delegate any Board duties to proxies or alternates.

Note: The Board must use the Statement of Understanding form to notify TWC of the election of a new lead CEO or Board Chair. The form must be submitted to TWC within 15 calendar days after the election of new lead CEO or Board Chair.

PART C — BOARD CERTIFICATION REQUIREMENTS

C-100: Role of the Governor

Texas Government Code §2308.261 prescribes the official role of the governor in the Board certification process. It states that the governor shall certify a Board on determining that the Board's composition is consistent with applicable federal and state requirements and meets established state criteria. The governor's certification must be made or denied within 30 days after the date on which a list of members and necessary supporting documentation is submitted to the Office of the Texas Governor. If the governor certifies a Board, the Board must be convened within 30 days by the official or officials who made the appointments to the Board.

The governor shall, once every two years, certify one Board for each workforce area in the state. Certification is to ensure that all Boards are composed according to state and federal law and meet all other requirements.

C-200: Board Review and Certification

TWC examines the following when conducting Board reviews:

- Board composition consistent with Texas Government Code §2308.256 and TWC rule §801.1(g)
- Diversity requirements
- Industry representation
- Bylaws
- Board–Chief Elected Official (CEO) Partnership Agreement

The Subsequent Certification form is used to ensure that all of the items listed above are reviewed, current, and in compliance with statutory requirements for a Board's subsequent certification.

PART D — TEXAS OPEN MEETINGS ACT

D-100: Summary of Open Meetings Act

Boards are subject to the requirements of the Texas Open Meetings Act. [Texas Government Code, §551.002] In general, a Board must give written notice to the public of the date, hour, place, and subject matter of all meetings. The Board must post notice of a meeting in a place that is readily accessible to the general public for at least 72 hours before the scheduled time of the meeting.

D-100.1: Meeting Notice per Number of Counties Served

Under Texas Government Code §551.053, a Board that extends into four or more counties shall:

1. post notice of each meeting in the Board's administrative office at a place convenient to the public;
2. provide notice of each meeting to the Texas Secretary of State; and
3. provide notice of each meeting to the county clerk of the county in which the Board's administrative office is located.

Under Texas Government Code §551.054, a Board that extends into fewer than four counties shall:

1. post notice of each meeting in the Board's administrative office at a place convenient to the public; and
2. provide notice of each meeting to the county clerk of each county located in the workforce area.

D-100.2: Open Meetings Handbook and Resources

Thomas Jefferson stated that “a public office is a public trust.” Actions taken by public officials must be open to scrutiny by the individuals they serve. In support of that philosophy, the Office of the Attorney General (OAG) for the State of Texas, which is responsible for ensuring the public's business is conducted openly, has prepared the Open Meetings Handbook. The handbook is available on the OAG website at [PIA and OMA Training Resources](#).

The Open Meetings Handbook serves as a reference tool for attorneys, government officials, and laypersons. It is not protected by copyright and may be reproduced as needed.

OAG also provides important information about open government through online training, conferences, legal opinions, frequently asked questions, and other resources on its [Open Government page](#).

D-100.3: Open Government Training Requirement for All Public Officials

Since January 1, 2006, elected and appointed public officials have been required by state law to receive training on the Open Meetings Act (OMA) and the Public Information Act (PIA). [Texas Government Code §551.005 and §552.012]

The 79th Texas Legislature, Regular Session (2005), directed OAG to establish formal training to ensure that all elected and appointed government officials have a good command of both open records and open meetings laws. The intent of the training is to prevent unintentional violations of open government laws and to strengthen the public's confidence in governing bodies.

Board members are subject to the open government training requirement, which consists of a course on the OMA and a course on the PIA. Under provisions of the law, only OAG-approved training meets the requirement. It is a one-time-only requirement with no refresher courses required. However, no grandfather provisions exist for public officials who may have attended open government training in the past.

Board members in office before January 1, 2006, were required to complete the training before January 1, 2007. Board members appointed after January 1, 2006, have 90 days from the date TWC certifies their appointment to complete the training. Boards must keep the training completion certificates on file in the local Workforce Solutions Office and make them available for public inspection upon request.

To help public officials comply with the training requirement and Texas open government laws, OAG offers training videos, completion certificates, open government handbooks, and information on requesting in-person training on the OAG website at [PIA and OMA Training Resources](#).

PART E — BOARD MEMBER CONFLICTS OF INTEREST

E-100: TWC Chapter 802 Integrity of the Texas Workforce System rule §802.41

Under §802.41, Boards are subject to the following provisions regarding conflicts of interest:

- (a) Pursuant to WIA §117(g) (29 USCA §2832(g) [and WIOA §107(h) (128 Stat. 1466)], this section sets forth the state's Board conflict of interest requirements for disclosure and declaration of a conflict of interest by a Board member.
- (b) A Board member may not vote on any matter that would provide direct financial benefit to the member or the member's immediate family, or on matters of the provision of services by the member or the entity the member represents. No Board member may participate in a decision in which the member has a direct or indirect interest, particularly a financial interest, which is in substantial conflict with the discharge of the duties of the Board.
- (c) A Board member shall avoid even the appearance of a conflict of interest. Prior to taking office, Board members must provide to the Board Chair a written declaration of all substantial business interests or relationships they, or their immediate families, have with all businesses or organizations that have received, currently receive, or are likely to receive contracts or funding

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from the Board. Such declarations shall be updated within 30 days to reflect any changes in such business interests or relationships. The Board shall appoint an individual to timely review the disclosure information and advise the Board Chair and appropriate members of potential conflicts.

- (d) Prior to a discussion, vote, or decision on any matter before a Board, if a member, or a person in the immediate family of such member, has a substantial interest in or relationship to a business entity, organization, or property that would be pecuniarily affected by any official Board action, that member shall disclose the nature and extent of the interest or relationship and shall abstain from voting on or in any other way participating in the decision on the matter. All such abstentions shall be recorded in the minutes of the Board meeting.
- (e) Each Board must include in its organizational plan or bylaws, or in a separate code of conduct, provisions for penalties, sanctions, or other disciplinary actions for any direct violations of the Board conflict of interest policy. The following definitions must be incorporated into those provisions.
 - (1) Immediate family—Any person related within the first degree of affinity (marriage) or consanguinity (blood) to the person involved.
 - (2) Substantial interest—A person has a substantial interest:
 - (A) in a business entity if:
 - (i) the person owns 10 percent or more of the voting stock or shares of the business, owns 10 percent or more, or owns \$5,000 or more, of the fair market value of a business; or
 - (ii) funds received by the person from the business exceed 10 percent of the person's gross income for the previous year;
 - (B) in real property if the interest is an equitable or legal ownership with a fair market value of \$2,500 or more; or
 - (C) if the Board member is related to a person in the first degree of affinity or consanguinity who has a substantial interest as defined in subparagraph (A) or (B) of this paragraph.

E-100.1: Code of Federal Regulations §667.200

Under 20 CFR §667.200(a)(4), Boards also are subject to the following:

- (4) In addition to the requirements at 29 CFR §95.42 or 29 CFR §97.36(b)(3) (as appropriate), which address codes of conduct and conflict of interest issues related to employees:
 - (i) A State Board member or a Local Board member or Youth Council member must neither cast a vote on, nor participate in any decision-making capacity, on the provision of services by such member (or any organization which that member directly represents), nor on any matter which would provide any direct financial benefit to that member or a member of his immediate family.

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- (ii) Neither membership on the State Board, the Local Board, or the Youth Council nor the receipt of WIA funds to provide training and related services, by itself, violates these conflicts of interest provisions.

E-100.2: Legislative Authority

Under the requirements of Texas Government Code §2308.257, Board members shall avoid the appearance of conflict of interest by not voting in, or participating in, any Board decision regarding the provision of services by such member, or any organization which that member directly represents, or any matter that would provide direct financial benefit to that member, the member's immediate family, or any organization which that member directly represents.

PART F — APPOINTMENT PROCESS

F-100: Vacancies and Appointments

When a Board member resigns, Boards must take the following steps :

- Notify TWC—Submit a Vacancy form, signed by the Board Chair, to TWC within 20 calendar days of the date of resignation, termination, or other event causing a vacancy.
- Notify the CEO(s)—Either Board staff or the Board Chair shall inform the CEO(s) that a vacancy exists on the Board and a replacement is required.
- Recruit nominee—The CEO(s) must recruit a nominee to fill the vacancy. A required category vacancy must be filled within 90 calendar days after the effective date of resignation, termination, or other event causing the vacancy.
- Ensure the current résumé, curriculum vitae, or work history contains sufficient information to clearly explain the nominee's relationship to and qualifications for the category he or she is being nominated to represent.
- Submit the Board Appointment form to TWC with the following documentation for each appointee or reappointee:
 - Nomination Slate
 - Conflict of Interest Statement
 - Résumé, curriculum vitae, or work history

Note: Do not alter or localize required TWC forms.

- Ensure that the new appointee does not participate in any Board votes until the appointee has been notified by TWC that the Commission has certified the appointment.

The following are the suggested business practices when a Board member's term is expiring:

- Board staff informs the Board member and CEO(s) several months in advance that the member's term will be expiring. The CEO(s) decides whether to reappoint the current Board member or recruit a nominee for the designated position.
- Reappointments must be completed within 90 calendar days after the effective date of the term expiration.
- For all reappointments, submit the Board Appointments form; a new Nomination Slate; a current résumé, curriculum vitae, or work history; and a completed Conflict of Interest Statement for Local Workforce Development Board Members to TWC.

F-200: Appointment Checklist

Checklist for Submitting Board Appointments

For local use only. Do not submit to the Texas Workforce Commission.

FOR ALL CATEGORIES

- Yes No Résumé/curriculum vitae is current and includes information that supports the category the appointee will be representing.
- Yes No Appointee can represent only one of the required categories.
- Yes No Conflict of Interest Statement signed by Board Executive Director is included.
- Yes No TWC Tax Account number(s) for the organization being represented is included on the nomination slate. (TWC Tax Account numbers are nine digits long.)
- Yes No Nomination Slate includes the **total** number of employees.

Private Sector Representative

- Yes No Appointee is a business owner, chief executive, or chief operating officer of a nongovernmental employer, or nominee has substantial management or policy responsibility. This information must be included in the résumé/curriculum vitae.
- Yes No At least 51 percent of appointee's annual income is from private sector sources.
- Yes No Appointee's title on Nomination Slate and on résumé/curriculum vitae are the same.
- Yes No Appointee was nominated by a general-purpose business organization (that is, an organization that admits for membership any for-profit business operating within the workforce area [Chamber of Commerce or Economic Development Organization]).

Community-Based Organization Representative

- Yes No Community-based organization (CBO) making the nomination is private and nonprofit. Yes No Appointee is affiliated with the CBO as a Board member, employee, or active member.
- Yes No Appointee's title and organization listed on Nomination Slate corresponds to the CBO making the nomination.
- Yes No Résumé/curriculum vitae includes appointee's relation to the CBO, and demonstrates experience in the field of workforce investment.
- Yes No Résumé/curriculum vitae contains statement of how CBO demonstrates expertise and effectiveness in the field of workforce investment.

Organized-Labor Representative

- Yes No Nomination was submitted by local labor federation (for example, AFL-CIO and local central labor councils).
- Yes No If a local labor federation does not exist in the workforce area, nomination was made by local union.
- Yes No Appointee's title and organization listed on Nomination Slate corresponds to the labor federation/local union making the nomination.

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Yes No Résumé/curriculum vitae includes appointee's relation to the labor federation.

Education Representative

Yes No Appointee is a school board member, teacher, administrator, counselor, or an individual actively engaged in the education field.

Yes No Board has at least two education representatives, one representing secondary education and one representing postsecondary education.

Yes No Appointee's title and organization listed on Nomination Slate corresponds to the education agency making the nomination.

Yes No Résumé/curriculum vitae includes appointee's relation to the education agency.

Public Employment Representative

Yes No Appointee is a TWC employee.

Yes No Workforce Development Division staff prepared nominee's Nomination Slate.

Yes No Appointee is nominated by TWC's Workforce Development Division Director.

Vocational Rehabilitation Representative

Yes No Appointee is nominated by an agency that provides services to individuals with disabilities to help them prepare for, secure, retain, or regain employment.

Yes No Appointee is active board member or employee of the vocational rehabilitation organization.

Yes No Résumé/curriculum vitae includes appointee's relation to the vocational rehabilitation organization.

Public Assistance Representative

Yes No Appointee is nominated by a public assistance agency. Public assistance means federal, state, or local government cash payments for which eligibility is determined by a needs or income test.

Yes No Appointee is an active board member or employee of the public assistance organization.

Economic Development Representative

Yes No Appointee is a board member or employee of the economic development agency making the nomination.

Yes No Appointee is nominated by a local planning and zoning commission or board, community development organization, local organization or institution responsible for regulating, promoting, or assisting in local economic growth, or a private-sector economic development entity.

Literacy Council Representative

Yes No Appointee was nominated by the local literacy council. If a local literacy council does not exist in the workforce area, appointee was nominated by a literacy provider funded by a local literacy council.

Yes No Appointee is a board member, employee, or active volunteer of the literacy organization. Yes

No Résumé/curriculum vitae includes appointee's relation to the literacy organization.

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Adult Basic and Continuing Education Representative

- Yes No Appointee was nominated by a local public education agency or a private nonprofit organization that provides educational instruction or other education services to adults who have not obtained a high school diploma or its equivalent.
- Yes No Appointee is a board member, employee, or volunteer and is actively engaged in the provision of or field of adult basic and continuing education.
- Yes No Résumé/curriculum vitae includes appointee’s relation to the adult basic and continuing education organization.

SPECIAL BOARD REQUIREMENTS

Child Care Representative

- Yes No One of the Board members has expertise in child care or early childhood education (**below prekindergarten**).
- Yes No Expertise and/or education is included in the résumé/curriculum vitae.

Veteran Representative

- Yes No One of the Board members is a veteran actively engaged in the field of veterans affairs or services. Involvement must be included in the résumé/curriculum vitae.

**FOR LOCAL USE ONLY
DO NOT SUBMIT TO TEXAS WORKFORCE COMMISSION**

PART G — APPENDIX

G-100: Board Membership Breakdown by Number of Members

Number of Members	Private Sector (51%)	CBO and Labor (15%)	Other
25	13	4	8
26	14	4	8
27	14	5	8
28-29	15	5	8
30-31	16	5	8
32-33	17	5	8
34-35	18	6	8
36-37	19	6	8
38-39	20	6	8
40-41	21	7	8
42-43	22	7	8
44-45	23	7	8
46	24	7	8
47	24	8	8
48-49	25	8	8
50-51	26	8	8
52-53	27	8	8
54-55	28	9	8

G-200: Board Membership Breakdown by Category

Categories	Statutory Requirements	Minimum # of Representatives
Private-sector employers	Must constitute a majority (51%)	13
Organized labor and community-based organizations	Must constitute not less than 15%	4
Educational agencies, including: Secondary practitioners representing vocational education Postsecondary practitioners representing vocational education	Each must have one or more representatives	2
Economic development agencies	One or more representatives	1
Public assistance agencies	One or more representatives	1
Vocational rehabilitation	One or more representatives	1
Public employment service (TWC)	One or more representatives	1
Local literacy councils	One or more representatives	1
Adult basic and continuing education organizations	One or more representatives	1

PART H—FORMS

H-100: Conflict of Interest Statement

Note: This form is also available online at TWC’s [Workforce Development Boards page](#).

CONFLICT OF INTEREST STATEMENT

FOR LOCAL WORKFORCE DEVELOPMENT BOARD MEMBERS

Board Nominee: _____

Category Representing: _____

Does board nominee, any entity or business he/she is involved with, or the organization for which he/she is being nominated to represent have a contract with the Board?

Yes No If yes, please explain.

If yes, nominee will need to make appropriate disclosures to the Board.

Executive Director

Date

H-200: Nomination Slate

Note: This form is also available online at TWC’s [Workforce Development Boards page](#).

LOCAL WORKFORCE DEVELOPMENT BOARD NOMINATION SLATE PLEASE TYPE OR PRINT.

1. Workforce Area: _____

2. Name of Nominee: _____

3. Organization Representing: _____

4. Position/Title: _____

5. Address: _____ City/ZIP Code: _____

6. Phone Number: _____

7. Email: _____

8. Gender: Male Female

9. Race: What is the nominee’s race? Mark one or more races to indicate what the nominee considers himself/herself to be.

- | | | | |
|--|--|-----------------------------------|-----------------------------------|
| <input type="checkbox"/> White | <input type="checkbox"/> Black/African American/Negro | <input type="checkbox"/> Chinese | <input type="checkbox"/> Korean |
| <input type="checkbox"/> Asian Indian | <input type="checkbox"/> American Indian/Alaska Native | <input type="checkbox"/> Samoan | <input type="checkbox"/> Japanese |
| <input type="checkbox"/> Vietnamese | <input type="checkbox"/> Guamanian or Chamorro | <input type="checkbox"/> Filipino | |
| <input type="checkbox"/> Native Hawaiian | <input type="checkbox"/> Some Other Race _____ | | |

10. Hispanic Origin: Is the nominee Spanish/Hispanic/Latino?

- No, not Spanish/Hispanic/Latino
- Yes, Mexican, Mexican American, Chicano Yes, Puerto Rican Yes, Cuban
- Yes, other Spanish/Hispanic/Latino; specify: _____

11. Reference Item 3—Please list any applicable **Employer TWC Tax Account Number(s)**:

1) _____ 2) _____ 3) _____

12. **Total Number of Employees** associated with Employer TWC Tax Account Numbers listed in Item 11: _____

13. Please indicate the Workforce Board category the nominee represents (**Check Only One**):

- | | | |
|--|---|--------------------------|
| Private Sector Large/For-Profit Business (large 500 employees or more) | <input type="checkbox"/> | |
| Private Sector Small/For-Profit Business (fewer than 500 employees) | <input type="checkbox"/> | |
| Other Private Sector | <input type="checkbox"/> | |
| Education | <input type="checkbox"/> Adult Basic and Continuing Education | <input type="checkbox"/> |
| Literacy Council | <input type="checkbox"/> Organized Labor | <input type="checkbox"/> |
| Economic Development | <input type="checkbox"/> Community-Based Organization (CBO) | <input type="checkbox"/> |
| Vocational Rehabilitation | <input type="checkbox"/> Public Assistance | <input type="checkbox"/> |
| Public Employment Service (TWC)..... | <input type="checkbox"/> | |

Special Board Requirements – Indicate, if applicable:

14. Nominee has **expertise in child care or early childhood education**

15. Nominee is a **veteran and is actively engaged** in the field of veterans’ affairs or services

H-300: CEO/Board Partnership Agreement

Note: This form is also available online at TWC's [Workforce Development Boards page](#).

CHIEF ELECTED OFFICIAL/LOCAL WORKFORCE DEVELOPMENT BOARD

PARTNERSHIP AGREEMENT

STATEMENT OF UNDERSTANDING

This is to acknowledge and certify that I, the undersigned, have read, understand, and agree to the terms of the current and legally binding Partnership Agreement. Furthermore, I reserve the option to request negotiations to amend and/or modify the agreement at any time during my individual tenure as Lead CEO or Board Chair Representative.

Signature _____
Print Name

Title: _____
(Board Chair or Lead CEO)

Address: _____

Phone Number: _____

Email: _____

Workforce Area: _____

Effective Date: _____

Individuals may receive, review, and correct information that TWC collects about the individual by emailing open.records@twc.texas.gov or writing to TWC Open Records, Rm. 266, 101 East 15th St., Austin, TX 78778-0001.

H-400: Board Appointments

Note: This form is also available online at TWC’s [Workforce Development Boards page](#).

LOCAL WORKFORCE DEVELOPMENT BOARD APPOINTMENTS		
NAME	CATEGORY REPRESENTED	TERM MONTH/DAY/YEAR THRU MONTH/DAY/YEAR
Appointments (New)		
Reappointments		
AUTHORIZATION		
_____		_____
Print/Type CEO Name		Print/Type CEO Title
_____		_____
Print/Type name of Workforce Area	CEO Signature	Date

Individuals may receive, review, and correct information that TWC collects about the individual by emailing open.records@twc.texas.gov or writing to TWC Open Records, Rm. 266, 101 East 15th St., Austin, TX 78778-0001.

H-500: Board Vacancies

Note: This form is also available online at TWC’s [Workforce Development Boards page](#).

LOCAL WORKFORCE DEVELOPMENT BOARD VACANCIES		
NAME	CATEGORY REPRESENTED	RESIGNATION/TERMINATION DATE

AUTHORIZATION	
Please forward to the Texas Workforce Commission within 20 days after vacancy occurs.	
Print or type name of Workforce Area	Board Chair Signature
Print/Type Board Chair Name	Date

Individuals may receive, review, and correct information that TWC collects about the individual by emailing open.records@twc.texas.gov or writing to TWC Open Records, Rm. 266, 101 East 15th St., Austin, TX 78778-0001.

H-600: Subsequent Certification

TEXAS WORKFORCE COMMISSION LOCAL WORKFORCE DEVELOPMENT BOARD CERTIFICATION REVIEW PROCESS	
LOCAL WORKFORCE DEVELOPMENT AREA (WORKFORCE AREA)	DATE

1. LOCAL WORKFORCE DEVELOPMENT BOARD (BOARD) COMPOSITION

Is Board composition consistent with Texas Government Code §2308.256? Yes No

Private sector representatives constitute a majority of the membership of the Board. Yes No

Community-based organization/organized labor representatives constitute not less than 15 percent of the membership of the Board. Yes No

Representatives of each of the following:

Education

(1) Secondary Education Yes No

(1) Postsecondary Education Yes No

Vocational Rehabilitation Yes No

Economic Development Yes No

Public Assistance Yes No

Public Employment Service Yes No

Literacy Council Yes No

Adult Basic and Continuing Education Yes No

Does one of the above members have expertise in child care or early childhood education? Yes No

Is one of the above members a veteran actively engaged in the field of veteran affairs or services? Yes No

<p>Comments:</p>

<p>Response:</p>

2. DIVERSITY REQUIREMENTS

Is the Board in compliance with the ethnic and geographic diversity of the workforce area in accordance with the latest census report? Yes No

Comments:
Response:

3. INDUSTRY REPRESENTATION

Does the private sector membership of your Board reasonably represent the industrial and demographic composition of the business community? Yes No

Comments:
Response:

4. BYLAWS

Date of current bylaws _____

Do bylaws include the size of Board? Yes No

Is composition of Board consistent with bylaws? Yes No

Do bylaws identify conflict of interest policy? Yes No

Are bylaws signed and dated? Yes No

Comments:
Response:

5. PARTNERSHIP AGREEMENT

Date of current Partnership Agreement _____

Is grant recipient identified? Yes No

Is the administrative entity identified? Yes No

Is the process for development of Strategic and Operational Plan identified? Yes No

Comments:

Response:

6. Are the Partnership Agreement and Board bylaws in agreement with each other? Yes No

Comments:

Response:

7. _____ WIOA PROGRAM YEAR

PERFORMANCE & PROGRAM YEAR _____

AVAILABLE PERFORMANCE DATA:

Comments:

Response:

Signature, Board Executive Director

Date

Received by TWC: _____

Signature
Director, Board Support and Agency Administered Programs

Date