

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
TDHCA Governing Board Approved Draft of  
10 TAC §1.6, Historically Underutilized Businesses

Disclaimer

Attached is a draft of proposed new 10 TAC §1.6, Historically Underutilized Businesses, that was approved by the TDHCA Governing Board on May 24, 2018. This action will entail the repeal of the current rule at this section, and a contemporaneous new rule being proposed to replace it. This document, including its preamble, is expected to be published in the June 8, 2018, edition of the Texas Register and that published version will constitute the official version for purposes of public comment and can be found at the following link: <https://www.sos.texas.gov/texreg/index.shtml>.

Public Comment

Public Comment Period: Start: 8:00 a.m. Austin local time on June 11, 2018  
End: 5:00 p.m. Austin local time on July 11, 2018

Comments received after 5:00 p.m. Austin local time on July 11, 2018, will not be accepted.

Written comments may be submitted, in hard copy/fax or electronic formats to:

Texas Department of Housing and Community Affairs  
Attn: Brooke Boston  
Rules Comments  
P.O. Box 13941  
Austin, Texas 78711-3941  
Email: [brooke.boston@tdhca.state.tx.us](mailto:brooke.boston@tdhca.state.tx.us)

Written comments may be submitted in hard copy or email formats within the designated public comment period. Those making public comment are encouraged to reference the specific draft rule, policy, or plan related to their comment as well as a specific reference or cite associated with each comment.

Please be aware that all comments submitted to the TDHCA will be considered public information.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
Street Address: 221 East 11th Street, Austin, TX 78701  
Mailing Address: PO Box 13941, Austin, TX 78711-3941  
Main Number: 512-475-3800 Toll Free: 1-800-525-0657  
Email: [info@tdhca.state.tx.us](mailto:info@tdhca.state.tx.us) Web: [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us)

### **Preamble and proposed new of 10 TAC §1.6, Historically Underutilized Businesses**

The Texas Department of Housing and Community Affairs (the "Department") proposes new 10 TAC §1.6, Historically Underutilized Businesses. The purpose of the proposed new section is to provide compliance with Tex. Gov't Code, §2161.003; to update the rule to provide consistency with the most current Texas Comptroller of Public Account's (the "Comptroller") rules relating to Historically Underutilized Businesses ("HUBs"), found at 34 TAC Chapter 20, Subchapter D, Division 1, §§20.281 to 20.298; and to make minor edits for readability and clarity.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the new section is in effect, enforcing or administering the new section does not have any foreseeable implications related to costs or revenues of the state or local governments.

GOVERNMENT GROWH IMPACT STATEMENT. Mr. Irvine also has determined that, for the first five years a rule would be in effect:

1. The proposed rule does not create or eliminate a government program;
2. The proposed rule will not require a change in the number of employees of the Department;
3. The proposed rule will not require additional future legislative appropriations;
4. The proposed rule will result in neither an increase nor a decrease in fees paid to the Department;
5. The proposed rule will not create a new regulation, except that it is replacing a rule being repealed simultaneously to provide for the updating and improved clarity of that rule;
6. The proposed rule will not expand an existing regulation;
7. The proposed rule will not increase the number of individuals subject to the rule's applicability; and
8. The proposed rule will neither positively nor negatively affect this state's economy.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section will be improved compliance with Comptroller rules and increased clarity and organization. There will not be any economic cost to any individuals required to comply with the new section, because the processes described by the rule have been in place through the rule found at this section being repeal.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES. The Department has determined that there will be no economic effect on small or micro-businesses or rural communities.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held June 11, 2018, to July 11, 2018, to receive input on the new section. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, by fax to (512) 475-0220, or email brooke.boston@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. Austin local time JULY 11, 2018.

STATUTORY AUTHORITY. The new sections are proposed pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed new sections affect no other code, article, or statute.

#### **§1.6, Historically Underutilized Businesses**

It is the policy of the Department to encourage the use of Historically Underutilized Businesses ("HUB") in the Department's procurement processes. The purpose of the HUB program is to promote full and equal business opportunities for all businesses in an effort to remedy disparity in state procurement and contracting in accordance with the HUB goals specified in the 2009 State of Texas Disparity Study. As required by Tex. Gov't Code §2161.003, the Department adopts the Texas Comptroller of Public Accounts ("Comptroller") HUB Program rules at 34 TAC §§20.281 - 20.298 (relating to Historically Underutilized Business Program, and as may be amended by the Comptroller so far as the amendments are implementing Tex. Gov't Code §2161.003), which describe the minimum steps and requirements to be undertaken by the Comptroller and state agencies to fulfill the state's HUB policy, and attain aspirational goals identified in the Texas Disparity Study.