

PROJECT NO. 35351

RULEMAKING TO AMEND §27.31	§	PUBLIC UTILITY COMMISSION
RELATING TO HISTORICALLY	§	
UNDERUTILIZED BUSINESS	§	OF TEXAS
PROGRAM	§	

**PROPOSAL FOR PUBLICATION OF AMENDMENT TO §27.31
AS APPROVED AT THE FEBRUARY 22, 2008 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes an amendment to §27.31 relating to Historically Underutilized Business Program. The amendment to §27.31 is necessary in order to incorporate the changes enacted through House Bill 3560, 80th Legislature, 2007, (HB 3560) which renamed the Texas Building and Procurement Commission as the Texas Facilities Commission and transferred certain duties from the Texas Building and Procurement Commission to the Comptroller of Public Accounts. Specifically, the Texas Facilities Commission retains its powers and duties that relate to buildings and facilities, surplus and salvage property and child care services for state employees. All other duties and powers of the Texas Building and Procurement Commission were transferred to the Comptroller of Public Accounts. Under the HB 3560, rules of the Texas Building and Procurement Commission that are related to an activity transferred by the bill to the Comptroller of Public Accounts continue in effect as the rules of the Comptroller of Public Accounts until superseded by an act of the Comptroller of Public Accounts. The name change and transfer of duties became effective September 1, 2007. Before September 1, 2007, the commission, under Texas Government Code §2161.003, was required to adopt the Historically Underutilized Business (HUB) Program rules from the Texas Building and Procurement Commission (formerly called the Texas General Services Commission). As a result, the current §27.31 states that “the commission adopts by reference the rules of the Texas General Services Commission.” Because the HUB program

rules, which were located under Title 1, Part 5, Chapter 111, Subchapter B, have now been transferred and reorganized under Title 34, Part 1, Chapter 20 of the Texas Administrative Code, an amendment to §27.31 is necessary to comply with Texas Government Code §2161.003. Project Number 35351 is assigned to this proceeding.

Leticia Flores, General Counsel, has determined that for each year of the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Flores has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be a streamlined method for securing more goods and services from HUB vendors. There will be no effect on small businesses or micro-businesses as a result of enforcing this section, therefore, no regulatory flexibility analysis is necessary. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Ms. Flores has also determined that for each year of the first five years the proposed section is in effect there should be no effect on a local economy, and therefore no local employment impact statement is required under the Administrative Procedure Act §2001.022.

The commission staff will conduct a public hearing on this rulemaking, if requested pursuant to the Administrative Procedure Act, Texas Government Code §2001.029. The request for a public hearing must be received within 30 days after publication.

Comments on the proposed new rule (16 copies) may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, within 30 days after publication. Comments should be organized in a manner consistent with the organization of the proposed rule. All comments should refer to Project Number 35351.

This amendment is proposed under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 and §14.052 (Vernon 2007 and Supp. 2007) (PURA), which provides the Public Utility Commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, including rules of practice and procedure; and Texas Government Code §2161.003, which requires the commission to adopt the Comptroller of Public Accounts rules for Historically Underutilized Businesses.

Cross Reference to Statutes: Public Utility Regulatory Act §14.002 and §14.052; Texas Government Code §2161.003.

§27.31. Historically Underutilized Business Program.

The commission adopts by reference the rules of the Comptroller of Public Accounts~~Texas General Services Commission~~ in 34~~341~~ Texas Administrative Code (TAC) §§20.11, 20.13, 20.14, 20.26 and 20.27~~§§111.11, 111.13, 111.14, 111.26, and 111.27~~, relating to the Historically Underutilized Business Program.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

**ISSUED IN AUSTIN, TEXAS ON THE 22nd DAY OF FEBRUARY 2008 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A GONZALES**

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