

The Texas Animal Health Commission (commission) proposes an amendment to §59.9, concerning Historically Underutilized Business Programs, and new §59.13, concerning Posting of Certain Contracts; Enhanced Contract Monitoring, in Chapter 59, which is entitled “General Practices and Procedures”. The new rule implements procedures for contracts for the purchase of goods or services from private vendors.

The purpose of the amendment to §59.9 is to reference the correct rules relating to the Historically Underutilized Business Program. The new rule is proposed in response to Texas Government Code §2261.253 enacted by the 84th Texas Legislature, which requires each state agency by rule to establish a procedure to identify contracts that require enhanced contract or performance monitoring and prescribes certain reporting requirements.

FISCAL NOTE

Ms. Larissa Schmidt, Chief of Staff, Texas Animal Health Commission, has determined for the first five-year period the rules are in effect, there will be no significant additional fiscal implications for state or local government as a result of enforcing or administering the rules. An Economic Impact Statement (EIS) is required if the proposed rule has an adverse economic effect on small businesses. The agency has evaluated the requirements and determined that there is not an adverse economic impact and, therefore, there is no need to do an EIS. Implementation of these rules poses no significant fiscal impact on small or micro-businesses, or to individuals.

PUBLIC BENEFIT NOTE

Ms. Schmidt has also determined that for each year of the first five years the proposed rules are in effect, the public benefit anticipated as a result of enforcing the rules will be enhanced reporting requirements, and increased transparency and accountability in agency contracting.

LOCAL EMPLOYMENT IMPACT STATEMENT

In accordance with Texas Government Code §2001.022, this agency has determined that the proposed rules will not impact local economies and, therefore, did not file a request for a local employment impact statement with the Texas Workforce Commission.

REQUEST FOR COMMENT

Comments regarding the proposal may be submitted to Amanda Bernhard, Texas Animal Health Commission, 2105 Kramer Lane, Austin, Texas 78758, by fax at (512) 719-0719 or by email at “comments@tahc.texas.gov”.

STATUTORY AUTHORITY

The new rule is proposed under Texas Government Code §2261.253, which requires the commission to adopt and enforce rules to implement procedures for contracts for the purchase of goods or services from private vendors and establish a procedure to identify each contract that

requires enhanced contract or performance monitoring and submit information on the contract to the agency's governing body.

Pursuant to §2161.003 of the Texas Government Code, a state agency shall adopt the Comptroller's rules under §2161.002 as the agency's own rules. Those rules apply to the agency's construction projects and purchases of goods and services paid for with appropriated money without regard to whether a project or purchase is otherwise subject to this subtitle.

No other statutes, articles or codes are affected by the proposal.

59.9. Historically Underutilized Business Program Programs.

The Texas Animal Health Commission adopts by reference the rules of the Texas Comptroller of Public Accounts in 34 TAC Part 1, Chapter 20, Subchapter B (relating to provisions of 1 Texas Administrative Code §§111.11 – 111.28 regarding Historically Underutilized Business Program) (H.U.B.) programs.

59.13. Posting of Certain Contracts; Enhanced Contract Monitoring.

(a) Pursuant to §2261.253 of the Texas Government Code, the commission will implement the following procedures for contracts for the purchase of goods or services from private vendors:

(1) The commission will list information pertaining to its contract with private vendors on its website. The information will include:

(A) The name of the vendor with whom the contract is made;

(B) A description of the competitive bidding process for the contract, or, if the contract did not involve competitive bidding, a citation and explanation of the legal authority supporting exemption from the competitive bidding process;

(C) A link to a copy of the request for proposal for the contract, if applicable, until the contract expires or is completed; and

(D) A link to a copy of the contract with the vendor until the contract expires or is completed.

(2) The commission will implement the following enhanced contract or performance monitoring procedures:

(A) For each contract with a value greater than \$25,000, the commission will evaluate whether enhanced contract or performance monitoring is appropriate. Criteria that may be considered include:

(i) Total cost of the contract;

(ii) Risk of loss to the commission under the contract;

(iii) Commission resources available for enhanced contract or performance monitoring; and

(iv) Duration of the contract.

(B) After evaluation of the contract, the commission will report to the commission members:

(i) The basis for determination as to whether enhanced contract or performance monitoring is appropriate;

(ii) Include any serious issues or risks identified with the contract, if applicable; and

(iii) If enhanced contract or performance monitoring is appropriate, the commission's plan for carrying out the enhanced contract or performance monitoring.

(b) This rule does not apply to memorandums of understanding, interagency contracts, interlocal agreements or contracts that do not involve a cost to the commission.