

The Texas Natural Resource Conservation Commission (TNRCC or commission) proposes an amendment to §11.1, Historically Underutilized Business Program.

#### BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE PROPOSED RULE

The purpose of §11.1, Historically Underutilized Business Program, is to comply with Government Code, §2161.003, created by Senate Bill 178, 76th Legislature, (1999), which requires the commission to adopt the General Services Commission (GSC) rules for Historically Underutilized Businesses (HUBs). The GSC amended its rules in July 1999. The commission must adopt the amendments by reference in order to be consistent. Section 11.1 is amended to adopt by reference the the GSC rules for HUBs, as amended through July 9, 1999 at 24 TexReg 5179

Concurrently with this rules proposal, the commission is publishing its Notice of Intention to Review Chapter 11. This review is in accordance with Texas Government Code, §2001.039, and the General Appropriations Act, Article IX, §9-10.13, 76th Legislature, 1999, which require state agencies to review and consider for readoption each of their rules every four years.

#### SECTION BY SECTION ANALYSIS

Section 11.1 is amended to adopt by reference the July 9, 1999 version of the GSC HUB rules, as amended through July 9, 1999 at 24 TexReg 5179. Subsections (b) and (c) are deleted because they are not statutorily required and are unnecessary.

#### FISCAL NOTE

Jeff Grymkoski, Director, Strategic Planning and Appropriations, has determined that for the first five-year period the rule as proposed is in effect, there will be no fiscal implications for state or local governments as a result of administration or enforcement of the proposed rule. Enforcement of the rule will not result in an increase in workload for commission staff.

#### PUBLIC BENEFIT

Mr. Grymkoski has also determined that for each year of the first five years the proposed rule is in effect, the public benefit anticipated from enforcement of and compliance with the rule will be a more flexible and streamlined method for securing goods and services from HUB vendors.

#### SMALL AND MICRO-BUSINESS IMPACT ANALYSES

The rule is not anticipated to impose costs on persons, small businesses, or micro-businesses.

#### DRAFT REGULATORY IMPACT ANALYSIS

The commission has reviewed the proposed rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and has determined that the rulemaking is not subject to §2001.0225 because it does not meet the definition of a “major environmental rule” as defined in the Texas Government Code. These are procedural rules governing contract procedures with HUBs. These rules do not set any environmental standards or affect the enforcement of environmental standards. There are no federal standards for these contracting issues. These rules are specifically required by state law, Texas Government Code, §2161.003. These rules are adopted under specific

state statute rather than the general powers of the commission. These rules do not exceed the requirements of state law. There are no delegation agreements or contracts between the state and federal government concerning state contracting procedures.

#### TAKINGS IMPACT ASSESSMENT

The commission has prepared a takings impact assessment for the rule under Texas Government Code, §2007.043. The following is a summary of that assessment. The specific purposes of the rule is to adopt by reference the rules of the GSC for contracting with HUBs. These are procedural rules governing contract procedures with HUBs. These rules do not set any environmental standards or affect the enforcement of environmental standards. These rules do not regulate the use of private real property. Therefore, these rules will not constitute a takings under Texas Government Code, Chapter 2007.

#### COASTAL MANAGEMENT PROGRAM CONSISTENCY REVIEW

The commission has determined that the proposed rulemaking does not relate to an action or actions subject to the Texas Coastal Management Program (CMP) in accordance with the Coastal Coordination Act of 1991, as amended (Texas Natural Resources Code, §§33.201 et seq.), and the commission's rules in 30 TAC Chapter 281, Subchapter B, concerning Consistency with the CMP. These are procedural rules that do not set environmental standards or affect their enforcement. Interested persons may submit comments on the consistency of the proposed rule with the CMP during the public comment period.

#### PUBLIC HEARING

A public hearing on this proposal will be held in Austin on January 13, 2000 at 2:00 p.m. in Building F, Room 5108 at the Texas Natural Resource Conservation Commission Complex, located at 12100 Park 35 Circle. Individuals may present oral statements when called upon in order of registration. Open discussion will not occur during the hearing; however, an agency staff member will be available to discuss the proposal 30 minutes before the hearing and will answer questions before and after the hearing.

Persons with disabilities who have special communication or other accommodation needs, who are planning to attend the hearing, should contact the Office of Environmental Policy, Analysis, and Assessment at (512) 239-4900. Requests should be made as far in advance as possible.

#### SUBMITTAL OF COMMENTS

Comments may be submitted to Lisa Martin, TNRCC, Office of Environmental Policy, Analysis, and Assessment, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 99047-011-AD. Comments must be received by 5:00 p.m., January 18, 2000. For further information, please contact Jim Dodds, Policy and Regulations Division, (512) 239-0970.

#### STATUTORY AUTHORITY

The amendment is proposed under SB 178, §1.23, 76th Legislature, 1999, codified as Texas Government Code, §2161.003, which requires state agencies to adopt the GSC rules on contracting

with HUBs as the agency's own rules.

The proposed amendment implements Texas Government Code, §2161.003.

**§11.1. Historically Underutilized Business Program.**

[(a)] The commission adopts by reference the rules of the Texas General Services Commission in 1 TAC §§111.11 - 111.23 (relating to [concerning] Historically Underutilized Business Certification Program), as amended through July 9, 1999 at 24 TexReg 5179 [effective October 4, 1995].

[(b)] The adoption of this rule is required by the General Appropriations Act (House Bill 1, 74th Legislature, 1995).]

[(c)] Copies of the rule are filed in the Texas Natural Resource Conservation Commission's (TNRCC) Library, located at 12100 Park 35 Circle, Building A, Austin, and at all TNRCC regional offices.]